

LEGAL ALERT

EXTINCTION AND PROHIBITION OF ISSUANCE OF BEARER SECURITIES

The law that provides for the extinction and prohibition of issuance of bearer securities in Portugal has been approved on 10 March 2017.

The above mentioned law falls within the scope of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015. The Directive addresses issues related to the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. According to its article 10, all Member States shall adopt measures to prevent misuse of bearer shares and bearer shares warrants.

The referred law, presented by *Comissão de Orçamento, Finanças e Modernização Administrativa*, approved by the Portuguese National Assembly (*Assembleia da República*), derives from two legislative drafts (*Projetos de Lei*), the first one presented by Bloco de Esquerda (BE) - *Projeto de Lei n.º 205/XIII/1.ª* – and the second one by Partido Socialista (PS) – *Projeto de Lei n.º 262/XIII/1.ª*.

The approved version of this law encompasses some significant changes to the legal framework, including the following:

I. Existing bearer securities

- a)** Bearer securities must be converted into nominal securities within six months counted from the entry into force of this law.
- b)** With effect from the end of the sixth month following the entry into force of this law:
 - (i) The transfer of bearer securities is forbidden;
 - (ii) The right to participate on the distribution of dividends is suspended to the holders of bearer securities.

II. Issuance of new bearer securities

- a) The issuance of new bearer securities is strictly prohibited.

By way of implementing the referred law, the Portuguese Government will have to approve a regulation within 120 days, which shall set forth the terms and conditions for the conversion of bearer securities into nominal securities.

As a final point, these changes to the legal framework are particularly relevant in situations where the bearer securities are encumbered, notably with a pledge, being at the same time located in another jurisdiction. The approved law may have an impact on the terms and conditions of the agreements that provide for such encumbrances.

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